

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ARMONI MASUD JOHNSON,

Plaintiff,

v.

SUPERINTENDENT MCGINLEY, *et al.*,

Defendants.

No. 4:18-CV-01714

(Chief Judge Brann)

(Chief Magistrate Judge Mehalchick)

ORDER

OCTOBER 18, 2021

Armoni Masud Johnson, a Pennsylvania state prisoner, filed this civil rights complaint, which he later amended, alleging that numerous defendants violated his constitutional rights during his incarceration.¹ On June 15, 2021, Chief Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court deny Johnson's motion for default judgment² and, on September 18, 2021, she issued a second Report and Recommendation recommending that the Court grant in part and deny in part Defendants' motion to dismiss.³ After seeking two extensions of time, Johnson filed objections to Chief Magistrate Judge Mehalchick's recommendation that the motion for default judgment be denied, but

¹ Docs. 1, 24, 34.

² Doc. 68.

³ Doc. 79.

no timely objections have been filed—by either party—related to the recommendation regarding Defendants’ motion to dismiss.⁴

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.⁵ Conversely, “[i]f a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁶ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁷ After reviewing the record, the Court finds no error in Chief Magistrate Judge Mehalchick’s conclusion that Johnson’s motion for default judgment should be denied, nor does it find any error in her recommendation that Defendants’ motion to dismiss be granted in part and denied in part. Accordingly, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Karoline Mehalchick’s Report and Recommendations (Docs. 68, 79) are **ADOPTED**;
2. Johnson’s motion for an extension of time (Doc. 71) is **GRANTED**;

⁴ Doc. 73.

⁵ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁶ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁷ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

3. Johnson's motion for default judgment (Doc. 61) and to strike Defendants' brief in support of its motion to dismiss (Doc. 64) are **DENIED**;
4. Defendants' motion to dismiss (Doc. 53) is **GRANTED** in part as follows:
 - A. Defendant SCI-Coal Township is **DISMISSED** from this action;
 - B. Johnson's access to the courts claim is **DISMISSED**;
 - C. Johnson's conspiracy claim is **DISMISSED**;
 - D. Johnson's retaliation claim is **DISMISSED** as to Defendant Peters only; and
 - E. Johnson may, on or before Monday, November 15, 2021, file an amended complaint only with respect to his conspiracy claim and his retaliation claim against Defendant Peters.
5. This matter is **REMANDED** to Chief Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge